

REMARKS/ARGUMENTS

Claims 1 - 28 and 38 - 40 are presented for the Examiner's consideration. Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 29 - 37 have been canceled without prejudice by the Applicants as being drawn to a non-elected invention in response to the previous restriction requirement. The Applicants respectfully traverse the Examiner's statement that the elected species do not include Figures 30 - 32 since these figures are different views of the dispenser included with the elected species.

The Applicants appreciate the Examiner's diligence with regard to the submitted information disclosure statement. The Applicants wish to point out that the pending application has an extensive family history as noted on page 1 of the specification. Furthermore, these prior applications have been filed in many different countries. Many of the references submitted have been cited by various foreign patent offices during prosecution. To comply with their duty of disclosure, the Applicants have submitted the references, but have not extensively reviewed them to ascertain which, if any, are more pertinent.

Turning to the drawing objections, the following comments are provided. Reference numeral 27 and the lead line have been removed from Figure 3. The specification has been amended with regard to tray to specify different embodiments for versions with or without a back wall. The tray may have an optional back wall as shown in Figures 2 and 7, or the tray may be open as shown in Figure 3. The Applicants have either updated the text as necessary with regard to different views of the same assembly or have added prime numbers to indicate the same but modified features in Figures 36, 37, and 38. Reference numeral number 17 has been omitted from Figure 3. With regard to reference numerals not mentioned in the description, reference number 9 in Figure 2, reference number 32 in Figure 9, and reference numbers 318 and 319 in Figures 36 - 38 have been removed. Reference number 95 in Figure 30 is described in the specification at page 42, lines 21 - 22. Reference numeral 334 is described in the specification at page 45, lines 9 -11.

Turning to the specification objections, the following comments are provided. The Applicants have amended the specification on page 21 to amend the term "wipes 34" to "the roll of wet wipes 34." On page 27, the word "figures" has been capitalized. On page 28 the correct

drawing figure is now referred to. The Applicants have made several additional corrections to eliminate minor errors as requested which can be seen in the above amendments. No new matter is believed to be introduced by the above amendments.

Claims 1 - 28 stand rejected under 35 U.S.C. § 112 as indefinite. The claimed drag relationship and how it is calculated is discussed in the specification at page 35, line 27 through page 36, line 8. Specifically, the drag relationship refers to the reduction in the actual drag force of the dispenser when dispensing wet wipes with lubricant to wet wipes dispensed from the same dispenser without any lubricant. Additionally, each of the independent claims has been amended to further clarify this relationship.

Claim 15 stands rejected under 35 U.S.C. § 112 as indefinite. The Applicants respectfully transverse this rejection since claim 15 specifically recites that the orifice is flexible. Thus, the initial gap could be zero and the flexible material forming the orifice could flex into an open position as a wet wipe passes through the orifice. Think of a wiper blade on a car window and then slipping a piece of paper under the wiper blade by flexing the wiper blade away from the window.

Claims 1 - 28 stand rejected under 35 U.S.C. § 103(a) as unpatentable over EP 0 930 243 A1 published by Chasid. Chasid discloses a wet wipes package including a flexible pouch, having a rigid base member and a lid for closing an opening in the pouch. Additionally, Chasid discloses two firm but resilient flaps located in the opening through which the wet wipes are dispensed as seen in Figure 3. Based on the Office Action dated April 20, 2004, the Examiner appears to correlate the moisture content or water within the wet wipe as the claimed lubricant.

Referring to Table VII in the Applicants' specification and the discussion occurring at page 33, line 18 through page 34, line 34, it is clear that water alone is not a lubricant as claimed. A lubricant is defined at page 5, lines 7 - 12 as any substance carried by the wetting solution that reduces friction as the wet wipe is dispensed. Thus, water cannot be a lubricant since it is the wetting solution and not a substance carried by the wetting solution. Referring specifically to Sample Group 1 in Table VII, the lubricant value is zero yet the wetting solution for this wet wipe was approximately 93 percent water and 7 percent active ingredients as discussed at page 33, lines 34 - 28. Sample Groups 2 - 7 are listed as containing various lubricant values and the lubricant is identified as a DC-1785 silicone emulsion. For example, Sample Group 5 having a

lubricant value of 100 contained 0.42 weight percent DC-1785 silicone emulsion and 93.16 percent water.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicants' disclosure. See MPEP § 2143 citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Since Chasid fails to disclose a lubricant carried by the wetting solution that reduces the drag relationship of the dispenser, the Applicants' claims are not obvious. The claimed drag reduction will not exist in the dispenser of Chasid since there is no teaching or suggestion to include a lubricant in the wetting solution to reduce the drag force.

Finally, the Applicants have added claims 38 - 40 to further define their invention. Claims 39 and 40 are directed to different embodiments of the flexible elastic sealing orifice for use with the dispenser. Support for claim 38 can be found a page 36, lines 27 - 32. Support for claim 40 can be found at page 43, lines 3 - 16. Claim 41 recites a specific lubricant for reducing the drag relationship. Support for claim 40 can be found at page 34, lines 1 - 5.

For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance. Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875. The undersigned may be reached at: (920) 721-7760.

Respectfully submitted,

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CERTIFICATE OF MAILING

I, Judith M. Anderson, hereby certify that on July 20, 2004 this document is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By Judith M. Anderson
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